

U. S. DEPARTMENT OF LABOR  
Employees' Compensation Appeals Board

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In the Matter of JOE R. SEGOVIA, JR. and DEPARTMENT OF THE AIR FORCE,  
KELLY AIR FORCE BASE, Tex.

*Docket No. 97-964; Submitted on the Record;  
Issued December 21, 1998*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, BRADLEY T. KNOTT,  
A. PETER KANJORSKI

The issue is whether appellant has established that his condition and need for medical treatment beginning March 1995 is causally related to his December 18, 1991 employment injury.

The Office of Workers' Compensation Programs accepted that appellant's December 18, 1991 employment injury, described by appellant as having occurred when his work leader "forcefully yanked me off a chair from behind," resulted in a cervical strain. Appellant returned to his regular work on February 27, 1992.

On June 22, 1995 appellant filed a claim for a recurrence of disability related to his December 18, 1991 employment injury. Appellant listed the date of the recurrence of disability as March 1, 1995, but indicated he had not stopped work and had not yet received any medical treatment. Appellant stated that he woke up just about every night with pain in the injured area, and that the pain was the same and in the same area. The Office denied appellant's claim by decision dated September 18, 1995, finding that the evidence failed to demonstrate a causal relationship between his condition and his employment injury. By decisions dated March 20 and July 3, 1996, the Office refused to modify this decision. By decision dated October 24, 1996, the Office found that additional evidence submitted by appellant was not sufficient to warrant review of its prior decisions.

Where appellant claims a recurrence of disability due to an accepted employment-related injury, he has the burden of establishing by the weight of the substantial, reliable, and probative evidence that the subsequent disability for which he claims compensation is causally related to the accepted injury.<sup>1</sup> This burden includes the necessity of furnishing evidence from a qualified physician who, on the basis of a complete and accurate factual and medical history, concludes

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<sup>1</sup> *John E. Blount*, 30 ECAB 1374 (1974).

that the condition is causally related to the employment injury and supports that conclusion with sound medical reasoning.<sup>2</sup>

The Board finds that appellant has not established that his condition and need for medical treatment beginning March 1995 is causally related to his December 18, 1991 employment injury.<sup>3</sup>

In support of his claim for a recurrence of disability, appellant submitted medical reports from two physicians. Neither doctor's reports are sufficient to meet appellant's burden of proof.

In a report dated November 20, 1995, Dr. Gerald Q. Greenfield, a Board-certified orthopedic surgeon, stated, "We reviewed his chart and found that in 1992 he sustained a C7 fracture.<sup>4</sup> The pain that he complains of is similar to that he had at that time and I feel that there is a relation between these two, thus we would recommend authorization for treatment of his neck pain." This report is not sufficient to meet appellant's burden of proof, as the Board has held that the similarity of symptoms, without additional supporting medical rationale, is insufficient to establish that a medical condition at a later date is related to an earlier employment injury.<sup>5</sup>

In a report dated July 16, 1996, Dr. Karl W. Swann, a Board-certified neurosurgeon, stated:

"[The Office] raises a question as to why the original diagnosis was C7 spinous process fracture and his current diagnosis is cervical radiculopathy due to disc herniation C5-6, C6-7. The reason for this is that Dr. Henry's assessment included only plain cervical spine x-rays which showed the fracture. No MRI [magnetic resonance imaging] or CAT [computerized axial tomography] scan evidently was undertaken. This type of test would have been necessary to make the diagnosis of disc herniation. Since there was no history of intervening injury given to me by [appellant] between December 1991 and his more current treatment, most probably his current symptoms are due to his 1991 injury. I cannot explain the gap in medical treatment between the time of the injury in 1991 and the present time. [Appellant] did tell me today however that there were some extenuating circumstances at work that may have influenced his decision not to seek additional care until recently."

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<sup>2</sup> *Frances B. Evans*, 31 ECAB 60 (1980).

<sup>3</sup> In his most recent request for reconsideration, appellant stated that his neck pain became more consistent about October 1994, and that by March 1995 he knew he had to see a doctor again. There is, however, no evidence in the case record that appellant saw any doctor for a neck condition between February 26, 1992 and November 20, 1995.

<sup>4</sup> Possible C7 fracture was the diagnosis by appellant's attending physician in a January 22, 1992 report. In a report dated February 26, 1992, this physician stated that x-rays on that date revealed "What I saw and thought to be a fracture is now healed. So I guess it was a fracture."

<sup>5</sup> *Leslie S. Pope*, 37 ECAB 798 (1986).

The Board has held that a doctor's opinion that the doctor is unaware of other injury that may have caused appellant's condition is insufficient, without supporting medical rationale, to establish an employee's claim for a recurrence of disability.<sup>6</sup> For this reason, Dr. Swann's report is insufficient to meet appellant's burden of proof. It is also insufficient because Dr. Swann relied on an inaccurate history of the employment injury,<sup>7</sup> as demonstrated by his May 21, 1996 report, which contains a history that "a coworker pulled the chair out from behind him. He fell to the floor." The case record does not substantiate that, in the December 18, 1991 employment injury, appellant fell to the floor, and this inaccurate history indicates a more traumatic incident than is supported by the evidence in the case record.

The decisions of the Office of Workers' Compensation Programs dated October 24, July 3 and March 20, 1996 are affirmed.

Dated, Washington, D.C.  
December 21, 1998

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>6</sup> *Virginia A. Vance*, 31 ECAB 1489 (1980).

<sup>7</sup> *See Peter Seaman*, 34 ECAB 1735 (1983).